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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,810	02/09/2004	Thomas Hofbrucker	DT-6756	9681

30377 7590 12/23/2004

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EXAMINER

DURAND, PAUL R

ART UNIT PAPER NUMBER

3721

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/775,810		HOFBRUCKER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Paul Durand		3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olvera et al (US 5,897,045) in view of Lin (US 6,779,697).

In regard to claims 1-3, Olvera discloses the invention substantially as claimed including a tool 10, comprised of driver 20, head piece 50, arranged at outlet 59, guide tube 30 and holding device 54 ( Fig.1 and C5,L20 – C6,L37). What Olvera does not

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disclose is the ability to rotate a headpiece relative to the rest of the device. However, Lin teaches that it is old and well known in the art to provide a rotating head and guide member 6, with at least two rotating positions of substantially 90° for the purpose of operating the tool around an obstacle (see Fig.2 and C2,L16 – C3,L29). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Olvera with the rotating means as taught by Lin for the purpose of operating the tool around an obstacle.

In regard to claims 4-7, the modified invention of Olvera discloses the invention substantially as claimed including a locking device comprised of hole 42 in a head piece 4, locking body comprised of a ball bearing 52, pressed against rotating head and guide member 6, engaging two receptacles 610 and biased by coil springs 51 for the purpose of operating the tool around an obstacle (see Figs. 2,7,9,10 and C2,L16 – C3,L29). Furthermore, while the modified invention uses a coil spring, the examiner takes Official Notice that it would have been an obvious matter of design choice to use a leaf spring in lieu of a coil spring for the purpose of holding a locking member in place.

In regard to claim 7, the modified invention of Olvera discloses the invention substantially as claimed including a locking device comprised of a setscrew 530 for the purpose of operating the tool around an obstacle (see Fig. 9).

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olvera et al and Lin in view of Caringella et al (US 6,761,299).

The modified invention of Olvera discloses the invention substantially as claimed except for a locking pin to retain the head member on the tool. However, Caringella

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teaches that it is old and well known in the art to provide a pin in the form of screw 182, which attaches to key 184 and into hole 188 for the purpose of retaining a head portion on a rotating tool (see Fig.8). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Olvera with the pin retaining means as taught by Caringella for the purpose of retaining a head portion on a rotating tool.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jacobson, Jenny, Nield and Gassner et al have been cited to show devices having similar structure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
November 30, 2004



**EUGENE KIM**  
**PRIMARY EXAMINER**